

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, NOVEMBER 21, 2005
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Deputy Mayor Atkins at 2:05 p.m. Deputy Mayor Atkins recessed the meeting at 3:42 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 3:51 p.m. with all Council Members present and District 2, District 8, and Mayor vacant. The meeting was adjourned by Deputy Mayor Atkins at 3:57 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council District 8-vacant
- Clerk-Maland (gs)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant
- (3) Council Member Atkins-present
- (4) Council Member Young-not present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council District 8-vacant

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Pastor Mark Dahle of La Jolla Lutheran Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

10/11/2005 – Special Meeting
10/17/2005
10/18/2005

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:07 p.m.)

MOTION BY MADAFFER TO APPROVE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-31:

Student African American Brotherhood Day.

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-482) ADOPTED AS RESOLUTION R-301046

Recognizing the many inspiring contributions made by the participants and organizers of the Student African American Brotherhood in the local and national chapters;

Proclaiming November 21, 2005, to be “Student African American Brotherhood Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:14 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-32: The 1987 San Diego State University Rugby Team Day.

MAYOR PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-466) ADOPTED AS RESOLUTION R-301047

Commending and recognizing the members, coaches, and trainers of the 1987 San Diego State University Rugby Team;

Proclaiming November 18, 2005, to be "The 1987 San Diego State University Rugby Team Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:20 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

CLOSED SESSION ITEMS:

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-1 Number of Cases: One

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 22, 2005

DCA assigned: T. Zeleny

In closed session, the City Attorney will advise the Council on the potential of the initiation of litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:52 p.m. – 3:52 p.m.)

Deputy Mayor Atkins closed the hearing.



* ITEM-50: Supporting Friends of Famosa Slough Grant Application to the California Wildlife Conservation Board for Funding to Complete the Famosa Slough Culvert Extension Project.

(Peninsula Community Area. District 2.)

CITY MANAGER’S RECOMMENDATION:

Introduce the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2006-63) INTRODUCED, TO BE ADOPTED ON MONDAY,
DECEMBER 5, 2005

Introduction of an Ordinance authorizing the City Manager, or his representative, to take all necessary actions to assist the Friends of Famosa Slough to secure funding from the State of California Wildlife Conservation Board for the Project;

Authorizing the City Manager, or his representative, to execute the Wildlife Conservation Board Grant Agreement, WC - 5032BT, as landowner to maintain the Famosa Slough Culvert Extension Project;

Certifying the City Council understands the assurances as landowner in the Wildlife Conservation Board Grant Agreement, WC - 5032BT, to maintain the Project.

Subitem-B: (R-2006-517) ADOPTED AS RESOLUTION R-301048

Stating for the record that the City of San Diego's support of the Friends of Famosa Slough's application for funding from the State of California Wildlife Conservation Board for the modifications to the plans and specifications of the

Project and execution of the Wildlife Conservation Board Grant Agreement, WC-5032BT, are a subsequent discretionary approval of the Project addressed in the Determination of Environmental Exemption, Project No. 29318, dated April 20, 2004 and therefore not a separate project under CEQA Guideline Sections 15060(c)(3) and 15378(c);

Stating for the record that the information contained in the Negative Declaration, LDR No. 93-0191, including any comments received during the public review process, the site-specific biological assessment, the Determination of Environmental Exemption, Project No. 29318, dated April 20, 2004, have been previously reviewed and considered by this Council and it is determined that this subsequent discretionary approval of the City of San Diego's support of the Friends of Famosa Slough's application for funding from the State of California Wildlife Conservation Board for the modifications to the plans and specifications of the Project and execution of the Wildlife Conservation Board Grant Agreement, WC-5032BT, do not involve substantial changes or new information of substantial importance which would warrant any additional environmental review.

CITY MANAGER SUPPORTING INFORMATION:

This action authorizes the Manager to support the Friends of Famosa Slough grant application to the California Wildlife Conservation Board for funding to complete the Famosa Slough Culvert Extension Project as identified in the Famosa Slough Enhancement Plan, November 1993. The action also provides assurance that the City will maintain the project once completed.

The project extends the existing, non-functional 48" culvert and reactivates the tidal flow between Famosa Slough and the Pacific Ocean beneath Point Loma Avenue. Restoration of the culvert will allow tidal exchange to the Slough to ensure sustainability of the wetland's fragile ecosystem.

In 1999, the Southern California Wetlands Recover Project (SCWRP) of the California Coastal Conservancy agreed to fund the Famosa Slough Culvert Extension and Retrofit project. City Council Resolution R-291777 adopted on June 21, 1999 authorized the Manager to apply for and accept grant funds from the California Coastal Conservancy to design and complete pre-construction elements of the project. City staff used a Coastal Conservancy grant to complete design of the project and has been working with the non-profit Friends of Famosa Slough to seek additional grant funding and complete the project.

FISCAL IMPACT:

The City's agreement to maintain the Famosa Slough Culvert Extension once it is constructed by the Friends of Famosa Slough will require less than \$1,000 of general fund budget dollars annually for a period of 25 years. Should an unanticipated blockage of the culvert occur, clearing could require additional general fund expense.

Oppenheim/Medina/AH

Staff: Carol Wood – (619) 525-8217
Hilda Ramirez Mendoza – Deputy City Attorney

FILE LOCATION: SUBITEM A: NONE
SUBITEM B: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-100: Inviting Bids for As-Needed Drilling Services for Environmental Site Investigations.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-222) ADOPTED AS RESOLUTION R-301049

Approving the plans and specifications for as-needed drilling services in connection with environmental site investigations for the Environmental Services Department, on Work Order No. 050445;

Authorizing and directing the Contract Processing and Awards section of the City to proceed to publish, in accordance with law, a notice to contractors calling for bids for the work described in paragraph 1 above, in accordance with the plans and specifications referred to in that paragraph;

Authorizing the City Manager, after advertising for bids in accordance with the law, to award a contract to, and execute a contract with, the lowest responsible and reliable bidder, for as-needed drilling services, in an amount not to exceed \$155,000;

Authorizing the expenditure of an amount not to exceed \$155,000, solely and exclusively for the above contract to be expended as follows: \$75,000 from Fund No. 30244, CIP-33-084.0, Underground Hazardous Materials Storage Tanks; \$25,000 from Fund No. 100, Fire Department; \$40,000 from Fund No. 100, Police Department; and \$15,000 from Fund No. 100, Park & Recreation Canyon Side Stables;

Authorizing the City Auditor and Comptroller to return excess budgeted funds, if any, to the contributing funds upon advice of the administering department;

Declaring this activity is categorically exempt from CEQA pursuant to CEQA Guideline Section 15306, because the agreement is for the purposes of information collection and other resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. (BID-K062747)

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego is responsible under state regulations for assessing the degree and extent of soil and groundwater contamination caused by unauthorized releases of petroleum hydrocarbons or other hazardous substances, whenever such releases originate on City-owned property or are caused by City operational activities. In order to properly assess the degree and extent of contamination, it is necessary to perform subsurface investigations using a variety of specialized drilling methodologies to permit the collection of soil and groundwater samples through the advancement of soil borings and construction of groundwater monitoring wells.

The funding requested under this 1472 will permit the bidding and award of an as-needed environmental drilling services contract to perform these subsurface investigations. The prior drilling services contract, awarded through the City's Purchasing Division, expired following

implementation of the initial one-year period and maximum allowable four annual extensions. Because services provided under the proposed contract will require possession of a State Contractors License, the new contract will be bid through the City's Contracts Processing Division. In accordance with Contracts Processing protocols for as-needed services, the proposed contract will be in effect for a one-year period with an option for an additional one-year extension at which time it will have to be re-bid.

The drilling services contract will be administered by the Tank Engineering and Environmental Management (TEEM) Program within the City's Environmental Services Department, Office of Environmental Protection and Sustainability. The TEEM Program is tasked with management and oversight of all unauthorized release cases where the City is identified by the State as the responsible party.

FISCAL IMPACT:

This request is for \$155,000, which is available in the Fiscal 2006 Budget, with \$75,000 from Underground Hazardous Materials Storage Tanks, Fund 30244, CIP-33-084.0; \$25,000 from Fund 100, Fire Department; \$40,000 from Fund 100, Police Department; and \$15,000 from Fund 100, Park and Recreation, Canyon Side Stables. Funds will be used to open Purchase Orders, as needed, for drilling services at the individual sites.

Mendes/Heap/CF

Aud. Cert. 2600345.

Staff: Craig Fergusson – (858) 627-3311
Grace C. Lowenberg – Deputy City Attorney

FILE LOCATION: W.O. 050445

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-101: Application to SANDAG for Transportation Development Act/Local Transportation Funds (TDA/LTF) and TransNet Bikeway Funds for Six Bicycle/Pedestrian Improvement Projects.

(Clairemont, Kearny Mesa, Tierrasanta, Mission Valley, Mira Mesa, Scripps Miramar Ranch, Uptown, North Park, Kensington-Talmadge, Mid-City, and Otay Mesa-Nestor Community Areas. Districts 3, 5, 6, 7, and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-297) ADOPTED AS RESOLUTION R-301050

Authorizing the City Manager, or designee, to take all necessary actions to secure \$179,000 in Transportation Development Act/Local Transportation Funds (TDA/LTF) and \$674,000 in TransNet Bikeway Funds from SANDAG for six bicycle/pedestrian improvement projects;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing account Fund No. 390069 for SANDAG Fiscal Year 2006 claim 06001002;

Authorizing the addition of CIP-58-188.0, Balboa Avenue/Tierrasanta Boulevard Bikeway; CIP-58-191.0, Hazard Center Road Bike Path Study; CIP-58-192.0, Mira Mesa Boulevard Bikeway; and CIP-58-193.0, Park Boulevard, Adams Avenue, to the Fiscal Year 2006 Capital Improvements Program Budget;

Authorizing the City Manager to increase the Fiscal Year 2006 Capital Improvements Program Budget by \$179,000 in CIP-58-140.0, Bayshore Bikeway, Fund 390069, TDA/LTF;

Authorizing the City Manager to increase the Fiscal Year 2006 Capital Improvements Program Budget by \$674,000 in Fund No. 30301, TransNet Bikeway Funds, for the following projects: \$250,000 in CIP-58-188.0, Balboa Avenue/Tierrasanta Boulevard Bikeway; \$180,000 in CIP-58-191.0, Hazard Center Road Bike Path Study; \$168,000 in CIP-58-192.0, Mira Mesa Boulevard Bikeway; \$46,000 in CIP-58-193.0, Park Boulevard, Adams Avenue; and \$30,000 in CIP-52-392.0, Carroll Canyon Road - Sorrento Valley Road to Scranton Road;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend an amount not to exceed \$179,000 from CIP-58-140.0, Bayshore Bikeway, Fund No. 390069, TDA/LTF funds for the purpose of designing a bike path, contingent upon the City Auditor and Comptroller first certifying that the funds are available and on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend an amount not to exceed \$674,000 from Fund No. 30301, TransNet funds for the following projects in the amounts specified, contingent upon the City Auditor and Comptroller first certifying that the funds are available and on deposit with the City Treasurer:

- (a) \$250,000 from CIP-58-188.0, Balboa Avenue/Tierrasanta Boulevard Bikeway, for the purpose of installing bike lanes on Balboa Avenue from Morena Boulevard to I-15 and on Tierrasanta Boulevard from I-15 to Santo Road.
- (b) \$180,000 from CIP-58-191.0, Hazard Center Road Bike Path Study, for the purpose of a bike study.
- (c) \$168,000 from CIP-58-192.0, Mira Mesa Boulevard Bikeway, for the purpose of restriping Mira Mesa Boulevard from Parkdale Avenue to Scripps Ranch Boulevard.
- (d) \$46,000 from CIP-58-193.0, Park Boulevard, Adams Avenue, for the purpose of installing bicycle lanes.
- (e) \$30,000 from CIP-52-392.0, Carroll Canyon Road - Sorrento Valley Road to Scranton Road, for the purpose of creating a new link to the existing bicycle network between the bike route on Carroll Canyon Road and bike lanes on Sorrento Valley Road.

Declaring this activity is not a "project" and is therefore exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2), and that any construction related to this activity will be subject to environmental review;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego applied to SANDAG for funding for fourteen bicycles and pedestrian improvement projects. The geographical locations of those proposed projects were throughout the City and in each Council district. SANDAG approved \$179,000 in Transportation Development Act/Local Transportation Funds (TDA/LTF) and \$674,000 in TransNet Bikeway Funds (a total of \$853,000) for six of the fourteen projects. This will fund various project design studies, cost estimates, and bike lane striping/signing. The projects to be funded are:

- CIP-58-188.0: Balboa Avenue/Tierrasanta Boulevard Bikeway from Morena Boulevard to I-15 and on Tierrasanta Boulevard from I-15 to Santo Road - \$250,000 (Clairemont, Kearny Mesa & Tierrasanta/Districts 6 & 7);
- CIP-58-191.0: Hazard Center Road Bike Path east of SR-163, under the State Route 163 to Fashion Valley Shopping Center - \$180,000 (Mission Valley/District 6);
- CIP 58-192.0: Mira Mesa Boulevard Bikeway restriping from Parkdale Avenue to Scripps Ranch Boulevard - \$168,000 (Mira Mesa & Scripps Miramar Ranch/District 5);
- CIP-58-193.0: Park Boulevard, Adams Avenue Bike Lanes from Park Boulevard to Adams Avenue - \$46,000 (Uptown, North Park, Kensington-Talmadge Mid-City/District 3);
- CIP-58-140.0: Bayshore Bikeway from the northern end of 13th Street to Main Street - \$179,000 (Otay Mesa/Nestor/District 8).
- CIP-52-392.0: Carroll Canyon Road/Scranton Road to Sorrento Valley Road - \$30,000 (Mira Mesa/District 5).

Council action is required to approve the application for funding, to accept the funds, and to authorize their expenditure. Staff will be resubmitting the unapproved projects and others when SANDAG requests applications in the future.

FISCAL IMPACT:

Accepting a total of \$853,000 (\$179,000 in TDA/LTF funds and \$674,000 in TransNet Bikeway Funds) from SANDAG.

Mendes/Boekamp/DZ

Staff: Zoumaras - (619) 533-3138
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-102: Transfer of Funds Into the Habitat Acquisition Fund for the San Diego River Wetland Creation Project.

(Mission Valley Community Planning Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-440) ADOPTED AS RESOLUTION R-301051

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$102,500 from Sewer Fund 41506 to the Habitat Acquisition Fund 10571 for the purpose of mitigation of 4.1 acres of upland impacts associated with construction of the San Diego River Wetland Creation Project, provided that the City Auditor and Comptroller first furnishes one or more certificates stating that funds necessary for transfer are, or will be, on deposit with the City Treasurer;

Declaring this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(4) because this activity does not involve the commitment of funds to any specific project which may result in a potentially significant physical impact on the environment.

CITY MANAGER SUPPORTING INFORMATION:

The Metropolitan Wastewater Department (MWWD) regularly implements construction, repair, or maintenance activities in accordance with Council Policy 400-13. This often requires compensatory upland and wetland mitigation for impacts to jurisdictional wetlands and timely restoration of impacts within canyons and other environmentally sensitive areas. These activities

are accomplished in accordance with the Canyon Sewer Cleaning and Long-Term Sewer Maintenance Programmatic Environmental Impact Report (PEIR) and Master Permit approved July 15, 2004. Timely mitigation of impacts associated with these activities is also required under the California Environmental Quality Act (CEQA) and by regulatory agencies. Accordingly, this project is proposed to meet these requirements.

The San Diego River Wetland Creation Project involves the creation of 3.63-acres of native riparian habitat located along the southern bank of the San Diego River, west of Interstate 15, and north of Camino Del Rio North. This habitat is being created to mitigate for past and future impacts within the San Diego River Watershed resulting from the Canyon Sewer Cleaning and Long-Term Sewer Maintenance Program.

Construction of the San Diego River Wetland Creation Project will result in permanent impacts to 4.1-acres of disturbed baccharis scrub habitat, which is classified as a sensitive Tier II Habitat type by City Biology Guidelines. Mitigation for impacts to 4.1-acres of Tier II Habitat is proposed through payment into the Habitat Acquisition Fund to purchase 4.1-acres of equal or better quality habitat.

FISCAL IMPACT:

The total estimated cost for this project is \$102,500 and is available in Fund 41506. This project is part of the existing operation and maintenance program and is not dependant on future financing proceeds.

Mendes/Tulloch/AKS

Aud. Cert. 2600325.

Staff: Mike Elling - (858) 292-6477
James W. Lancaster - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-103: Five Year Consultant Agreement with GeoLogic Associates for Groundwater Monitoring at West Miramar Landfill and Various Inactive Landfills.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-276) ADOPTED AS RESOLUTION R-301052

Authorizing the City Manager to execute a five-year consultant agreement with GeoLogic Associates, for groundwater monitoring at the West Miramar Landfill and various inactive landfills, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$650,000 from Fund No. 41200, solely and exclusively to provide funds for the above agreement;

Declaring this activity is categorically exempt from CEQA pursuant to CEQA Guideline Section 15306, because the agreement is for the purposes of information collection and other resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

CITY MANAGER SUPPORTING INFORMATION:

The proposed Agreement with GeoLogic Associates will provide professional services including report preparation and data analysis in support of the Environmental Services Department's Water Quality Monitoring Programs at the active West Miramar Landfill and various inactive landfills. Technical services, including field sampling, will include all City landfills. These programs are required by the California Code of Regulations, Titles 23 and 27, and each specific program is detailed in Waste Discharge Requirements issued by the Regional Water Quality Control Board via Orders 93-86, 96-15, 94-28, and 97-11.

After a competitive process, the proposed Consultant was selected in accordance with Council Policy 300-7 and has the necessary expertise and staffing to perform the required services.

FISCAL IMPACT:

The proposed Agreement provides compensation in accordance with an hourly fee schedule or negotiated lump sum for each specific task authorized by the department. The Agreement provides for a maximum fee of \$650,000. Funds for the Landfill Groundwater Monitoring

Program are an operation budget item (Refuse Disposal Enterprise Fund.) Funds will not be encumbered or expended until such time as specific projects and funding levels are identified and the City Auditor and Comptroller first furnishes a certificate demonstrating that the necessary funds are, or will be, on deposit with the City Treasurer.

Mendes/Heap/GRM

Aud. Cert. 2600340.

Staff: Steven Fontana - (858) 492-5077
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-104: Fourth Amendment to Retainer Agreement with Latham & Watkins for Outside Counsel Services for Various Litigation Cases.

(Otay Mesa Community Area. District 8.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-281 Cor. Copy) ADOPTED AS RESOLUTION R-301053

Authorizing a fourth amendment to the Retainer Agreement by and between the City of San Diego and Latham & Watkins, for legal services in Otay Acquisition v. City of San Diego, San Diego Superior Court Case No. GIC 753247, National Enterprise v. City of San Diego, San Diego Superior Court Case No. GIC 730011, and Border Business Park, Inc. v. City of San Diego, San Diego Superior Court Case No. GIC 692794;

Authorizing the expenditure of an amount not to exceed \$500,000 from Liability Fund No. 81140, solely and exclusively for the purpose of providing funds for the above agreement.

SUPPORTING INFORMATION:

An initial agreement in an amount not to exceed \$250,000, was authorized with Latham & Watkins for outside counsel to defend the City in the matters of Otay Acquisition v. City, S.D.S.C. Case No. GIC 753247; National Enterprise v. City, S.D.S.C. Case No. GIC 730011; and Border Business Park, Inc. v. City, S.D.S.C. Case No. GIC 692794. Three amendments to that agreement was authorized by the City Council in a total amount not to exceed an additional \$4.2 million. Additional services are now required to participate in ongoing court proceedings and prepare for future court proceedings, and an additional \$500,000, is required to fund the necessary services. The total contract will be in an amount not to exceed \$5,000,000. Approximately \$4.8 million of insurance proceeds has been received to help defray the cost of the representation.

Irvine/LJG

Aud. Cert. 2600338.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-105: Fourteenth Amendment to the Agreement with International Boundary and Water Commission (IBWC) for the Tijuana Emergency Connection.

(San Ysidro and Tijuana River Valley Community Areas. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-341) ADOPTED AS RESOLUTION R-301054

Authorizing the City Manager to execute, for and on behalf of the City, a Fourteenth Amendment to the Agreement with the International Boundary and Water Commission (IBWC), for the Tijuana Emergency Connection, under the terms and conditions set forth in the Amendment, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility this activity will cause a significant impact on the environment.

CITY MANAGER SUPPORTING INFORMATION:

In 1990, the City agreed to treat up to 13 million gallons per day (mgd) of Tijuana sewage in the City's Metropolitan Wastewater System (Metro) as an interim solution to the border sanitation problem, until the International Treatment Facilities were constructed. The City entered into an agreement with the International Boundary and Water Commission (IBWC) on July 22, 1991 to treat Tijuana sewage. The existing agreement expires on September 30, 2005. This Fourteenth Amendment will extend the agreement until September 30, 2008.

Phase I of the International Wastewater Treatment Plant, which came on line in May 1997, and the South Bay Ocean Outfall, which was completed in December 1998, can process and dispose of up to 25 mgd of Tijuana sewage. Upgrades to the Tijuana sewage system were completed in late 2000 which included the construction of a new pump station and parallel force main. As a result of these Tijuana system improvements, the emergency connection has not been utilized since September 2000. However, it is recommended that this agreement be extended for another three years to provide a safeguard, should an emergency arise in which it is necessary to divert Tijuana sewage to the Metro System. The rates charged will be adjusted at the beginning of each federal fiscal year, October 1, in accordance with the current processing costs.

FISCAL IMPACT:

In federal fiscal year 2006, the IBWC will be charged a rate of \$589.11 per million gallons of flow, plus \$156.76 per thousand pounds of Total Suspended Solids and \$65.50 per thousand pounds of Chemical Oxygen Demand for treatment of Tijuana sewage.

Mendes/Tulloch/CW

Staff: Craig Whittimore – (858) 292-6471
James W. Lancaster – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:24 p.m. – 3:27 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-106: Joint Community Facilities Agreement By and Among Poway Unified School District, the City of San Diego, and Black Mountain Ranch, LLC.

(Black Mountain Ranch Community Area. District 1.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-478) ADOPTED AS RESOLUTION R-301055

Authorizing the City Manager to execute the Joint Community Facilities Agreement By and Among Poway Unified School District, the City of San Diego, and Black Mountain Ranch, LLC;

Declaring this activity is not a “project” as defined by CEQA Guidelines Section 15378; thus, not subject to CEQA Review under Section 15060(c)(2).

CITY MANAGER SUPPORTING INFORMATION:

Pursuant to the application of the Owner of certain properties located within the City commonly known as Black Mountain Ranch LLC, the Board of Education of the Poway Unified School District (PUSD) has initiated proceedings to: 1) establish a community facilities district (CFD) to finance certain City facilities in addition to school facilities, and authorize the levy of special taxes.

The Mello-Roos Community Facilities Act of 1982 provides that the CFD may finance the City facilities only pursuant to a joint community facilities agreement between the parties, pursuant to Government Code Section 53316.2.

The City is willing to enter into such agreement provided the owners agree to indemnify the City as provided for in the agreement and to warranty the construction of any City facility.

The PUSD and the City have determined that entering into a joint community facilities agreement to enable the CFD to finance the construction of certain City facilities will be beneficial to the residents of each entity.

Many of these facilities are included in the Black Mountain Ranch FBA financing plan approved on January 14, 2003 (R-297551). Separate reimbursement agreements will be entered into for the FBA reimbursement of the applicable facilities.

FISCAL IMPACT:

None. This measure will expedite the construction of the public facilities needed for development of the community before FBA funds become available.

Oppenheim/Goldberg/AMA

Staff: Angela Abeyta - (619) 533-3674
David E. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-107: Jack Haney Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-458) ADOPTED AS RESOLUTION R-301056

Proclaiming November 18, 2005, as “Jack Haney Day” in the City of San Diego in honor of his outstanding contributions and service.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



* ITEM-108: Appointment of Mr. Todd R. Gloria to the San Diego Housing Commission.

(See memorandum from Deputy Mayor Atkins dated 10/5/2005, with resume attached.)

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-465) ADOPTED AS RESOLUTION R-301057

Council confirmation of the appointment by the Deputy Mayor of the City of San Diego, to serve as a member of the San Diego Housing Commission, for a term ending as indicated:

NAME

TERM ENDING

Todd R. Gloria
(City Heights, District 3)
(Replacing Howard J. Silldorf,
who resigned)

January 2, 2009

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:28 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-150: Amending the City's Election Campaign Control Ordinance to Add an Electioneering Communication Provision and to Make Assorted Housekeeping Revisions.

(See memorandums from Stacey Fulhorst dated 10/28/2005, with strikeout ordinance; and memorandum dated 11/14/2005, not available at Committee.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2006-67) INTRODUCED, TO BE ADOPTED ON MONDAY,
DECEMBER 5, 2005

Introduction of an Ordinance amending Chapter 2, Article 7, Division 29 of the San Diego Municipal Code by repealing Sections 27.2915 and 27.2974, and by amending Sections 27.2903, 27.2916, 27.2921, 27.2930, 27.2938, 27.2945, 27.2950, 27.2955, 27.2956, 27.2965, 27.2969, 27.2970, 27.2971, 27.2972, 27.2975, and 27.2976, and by adding new Sections 27.2974 and 27.2980, and amending Chapter 2, Article 6, Division 4 by amending Section 26.0422, and by amending Chapter 2, Article 7, Division 35, by amending Section 27.3503, all relating to the City of San Diego Election Campaign Control Ordinance. This Ordinance shall take effect and be in force on January 11, 2006.

RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S RECOMMENDATION:

On 11/2/2005, RULES voted 5 to 0 to forward the Ethics Commission recommendations to Council with the following changes:

- 1) Amend the telephone communications section to provide that volunteers making campaign calls may make an "on behalf of" disclosure instead of a "paid for by" disclosure,, and add a definition for "volunteer."

- 2) Amend the section concerning the return of contributions to provide for a 10-calendar day grace period for returning improper contribution checks that have been deposited (except that checks involving a contributor's mistaken identity may be returned up until the filing report deadline).
- 3) Amend the electioneering communication time period from 60 days to 90 days.
(Councilmembers Peters, Maienschein, Frye, Madaffer, and Deputy Mayor Atkins voted yea.)

ETHICS COMMISSION SUPPORTING INFORMATION:

This proposal, if approved by the City Council, would amend Chapter 2, Article 7, Division 29 of the San Diego Municipal Code, regarding the City's Election Campaign Control Ordinance (ECCO). The proposal would add an electioneering communication provision to ECCO, requiring that persons who spend \$1,000 or more disseminating so-called "issue ads" within ninety days of an election disclose their identity, the amount of the payment for the communication, and the source of funds used to make the communication. The proposal would also make a number of housekeeping amendments to ECCO to clarify existing provisions, increase consistency within ECCO, and to increase consistency with state law. The housekeeping amendments would affect provisions of ECCO dealing with mass mailings and other forms of campaign literature, telephone communications, carrying over contributions, disclosures on advertisements and campaign statements, and the return of improper checks. In particular, at the direction of RULES, the proposal would allow a 10-day grace period for improperly deposited campaign contributions, and address concern regarding the disclosures made by volunteers engaging in telephone communications.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:55 p.m.)

MOTION BY MAIENSCHIEIN TO INTRODUCE. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-200: Transfer of Fire/Lifeguard Facilities Fund Regarding the Temporary Fire Station to be Located in Mission Valley.

(Mission Valley Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-65) INTRODUCED WITH DIRECTION, TO BE ADOPTED
ON MONDAY, DECEMBER 5, 2005

Introduction of an Ordinance authorizing the transfer of \$664,000, from the Fire/Lifeguard Facilities Fund to the Fire Department Fiscal Year 2006 General Fund Budget, authorizing and directing the City Manager to apply to the Department of Homeland Security-Federal Emergency Agency U. S. Fire Administration Grant in the amount of \$509,100, and to take all other action necessary or desirable to acquire and construct a temporary fire station to be located in Mission Valley.

CITY MANAGER SUPPORTING INFORMATION:

The San Diego Fire-Rescue, Financial Management and Engineering and Capital Projects Departments have been developing the financing, construction and implementation of a temporary fire station to be located on City-owned land (see September 27 memo). This temporary station has been identified as a critical need for the Mission Valley area until the planned permanent station is constructed and operational. Currently, the average response time from the nearest fire station to the Mission Valley area is in excess of ten minutes. Once full funding becomes available for a permanent station, it will take approximately two years to complete the construction of the new fire station. In order to complete the temporary station project in the most expeditious time, it is proposed to award the project to Erickson-Hall Construction Co., which is the contractor who will move the temporary facilities from the Del Cerro Fire Station 31 to the temporary station site. This site is proposed to be temporarily located in parking only land in Mission Valley. The earliest possible opening would be January 1, 2006, subject to completion of the Del Cerro station, relocation of the trailer, permitting, and utility hook ups.

Based on an operational starting date of 1/1/2006, the estimated expense for the station is: Site preparation and construction estimate is \$358,000; 6 months staffing and operating costs estimate is \$1,020,000; lease value for the space, based upon existing market data for parking only uses in Mission Valley, is estimated at \$10,000 per six months for the approximately 8,000 square foot site; and a standby generator estimated at \$35,000 for a total estimated Fiscal Year 2006 expense of \$1,423,000. Funding for this station is a combination of reallocating portions of the Fiscal Year 2006 budgets for the Pacific Highlands Ranch, using some of the fund balance from the Fire/Lifeguard Facilities Fund, and utilizing the "Staffing for Adequate Fire and Emergency Response" (SAFER) grant, from the Department of Homeland Security. The Pacific Highlands Ranch Fire Station was supposed to open in Fiscal Year 2006, but has been delayed and will not be operational until Fiscal Year 2007. Therefore, funding is available to reallocate in Fiscal Year 2006.

The SAFER grant program, sponsored by the U. S. Department of Homeland Security (DHS), aims to enhance the applicant's ability to attain and maintain 24 hr. staffing, ensuring safety from fire and fire-related hazards. SDFD seeks to use SAFER funding to finance part of The cost of acquiring six firefighters over a period of five years for the proposed Mission Valley fire station, which would improve response times and emergency operations in that geographical area.

The maximum SAFER award for six firefighter positions is \$509,100, beginning with \$125,100 in the first year, \$192,000 in the second, \$120,000 in the third, \$72,000 in the fourth, with the City's General Fund providing the balance of the cost during the first four years and assuming full cost in the fifth year. Because the City's Five Year Plan projects the addition of this fire station, the absorption of the cost of the required personnel through the General Fund would be expected during that time. The City's required match during the grant period is estimated at \$13,948 in Fiscal Year 2006, \$282,687 in Fiscal Year 2007, \$493,478 in Fiscal Year 2008, \$569,241 in Fiscal Year 2009 and \$1,359,354 in Fiscal Year 2010.

The estimated fiscal impact for ongoing expenses to operate the temporary station in Fiscal Year 2007 is \$1.93 million. This expense provides for the personnel and non-personnel expenses of a four-person crew and allowances for overtime and fuel expenses. The expense estimate does not include any global adjustments made for retirement contributions and/or meet and confer impacts that would be applied to all City operations.

Ewell/Villa/JC

Staff: Julio Canizal – (619) 236-5932
Mark D. Blake – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:55 p.m. – 3:08 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION WITH DIRECTION TO STAFF THAT IF THE MONEY IS AVAILABLE JANUARY 1, 2006, TEMPORARILY HOUSE THE TRUCK IN THE EVENING AT STATION 18, AND DURING THE DAY HAVE THE TRUCK WORKING IN MISSION VALLEY. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

NOTE: This item will not be heard today. It is anticipated that it will be continued to November 28, 2005.

ITEM-201: Pacific Highlands Ranch Maintenance Assessment District Formation.

(Pacific Highlands Ranch Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-273) CONTINUED TO MONDAY, NOVEMBER 28, 2005

Resolution of Intention to form the Pacific Highlands Ranch Maintenance Assessment District and to levy and collect Fiscal Year 2006 Annual Assessments on Pacific Highlands Ranch Maintenance Assessment District.

CITY MANAGER SUPPORTING INFORMATION:

This action authorizes the ballot proceedings to form the Pacific Highlands Ranch Maintenance Assessment District (District). The District is in the Pacific Highlands Ranch Community Planning Area and is located east of Carmel Valley, west of Torrey Highlands, north of Del Mar Mesa, and south of unincorporated San Diego County. The purpose of the District is to fund the maintenance of enhanced landscaping and street lighting improvements located in public rights-of-way, medians, parkways and dedicated easements. The District will take over certain landscaped areas starting in Fiscal Year 2007; the streetlights in the arterials will be taken over in Fiscal Year 2006.

	<u>FY 2006</u>	<u>Maximum Authorized</u>
EXPENSES		
Personnel	\$0	\$36,467
Contractual	\$45,604	\$328,925
Incidental	\$40,000	\$74,332
Outlay	\$0	\$0
Streetlight Improvements	\$20,745	\$67,181
Energy & Utilities	<u>\$0</u>	<u>\$43,113</u>
TOTAL EXPENSES	\$106,349	\$550,018
REVENUES		
Assessments	\$116,349	\$541,680
City Contributions – Gas Tax	\$0	\$134,656
Interest	<u>\$0</u>	<u>\$10,000</u>
TOTAL REVENUES	\$116,349	\$686,336
RESERVES	\$10,000	\$136,318

The proposed annual assessments were calculated by an assessment engineer for parcels within the district and are based on each parcel's equivalent benefit unit (EBU), which is equivalent to one single family dwelling unit. Properties within the proposed district will be assessed based on the rate of development, land use, and proximity to the improvements. The maximum assessments rates per EBU for these improvements will vary. Based on Fiscal Year 2006 cost estimates, the cost per EBU will range between \$188 to \$297.

FISCAL IMPACT:

Approximately \$116,349 will be assessed to the property owners within the District in Fiscal Year 2006. The proposed Fiscal Year 2006 assessments and maximum authorized assessments are permitted to increase annually at a rate equivalent to the San Diego Consumer Price Index – Urban (SDCPI-U) plus 3%. A gas tax contribution for the General Benefit of landscaped and hardscaped median maintenance in the District will be requested as part of the Fiscal Year 2007 budget process. At build out, the amount is calculated to be \$134,656. The General Fund will not be impacted as there are currently no City-owned parcels located within the District.

Oppenheim/Medina/AWF

Staff: Andrew Field – (619) – 533-6778

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:24 p.m.)

MOTION BY PETERS TO CONTINUE TO MONDAY, NOVEMBER 28, 2005, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-202: Accepting City Treasurer's Investment Policy Pooled Investment Funds.

(City Treasurer's Investment Policy Pooled Investment Funds Report dated October 2005 and California Government Code Section 53646.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-464) ADOPTED AS AMENDED AS RESOLUTION R-301058

Receiving and accepting the City Treasurer's Investment Policy for the Pooled Investment Fund dated October 2005;

Delegating the authority to invest the City's operating and capital improvement funds to the City Treasurer for a period of one year;

Approving the recommendations of the City Treasurer to opt out of the provisions of Government Code 53646 to the extent such provisions require providing copies of certain reports to the California Debt and Investment Advisory Committee, unless the State agrees to reimburse the City for the cost of producing such reports.

CITY MANAGER SUPPORTING INFORMATION:

1 - California Government Code (CGC) has vested authority with the City Council to invest or to reinvest funds of the City or to sell or exchange securities purchased. Under CGC

Section 53607, the City Council may delegate this authority to the City Treasurer for a period of one year. Prior to the enactment of this superceding legislation in 2002, the City Treasurer

had the authority to invest the funds of the City under CGC Section 53635 and City Charter Section 45. The City Council now annually delegates this authority to the City Treasurer. City Council's Resolution R-299868 adopted on November 22, 2004, was the last time the Council delegated this authority.

The City Treasurer has an established investment policy which is reviewed annually for legislative changes. The City Treasurer and the Investment Division staff regularly report the results of portfolio performance, investment strategy and any changes to the investment policy to an investment advisory committee, which was established in 1990.

- 2 - Assembly Bill (AB) No. 2853, approved by the Governor, September 29, 2004, makes the requirements described under California Government Code Section (CGCS) 53646 for the City Treasurer to render a statement of investment policy to the City Council at a regular meeting on an annual basis optional. The same legislation would also make the requirement to provide the City Council and the California Debt and Investment Advisory Commission (CDIAC) with a quarterly investment report as described in the Code optional. This legislation is a budget savings measure for the State which relieves the State from reimbursing local governments for mandated costs.

Recommendations:

- 1 - The City Manager is recommending that the Council renew the delegation of investment authority to the City Treasurer for a period of one year.
- 2 - The City Treasurer is recommending that the Council support the Treasurer in the decision that the City exercises the option not to follow the provisions of Government Code 53646 that are no longer mandated. The Treasurer proposes that we revert back to past practices wherein the City Treasurer provided a copy of the City Treasurer's Investment Policy as an information item on an annual basis to the Mayor and Council and also provided regular monthly investment reports, as an information item, through the normal distribution channels. We would discontinue providing CDIAC with copies of our reports unless the State agreed to reimburse the City for the cost of production of those reports as was required under the prior mandate.

The last time the City submitted a claim to the State for reimbursement of investment reporting costs under the mandate was for FY2003 in the amount of \$34,617.73, which was submitted in January 2004. The new legislation eliminated the State reimbursement of the mandated cost and allowed the City to voluntarily supply the reports to the State without reimbursement.

Irvine/Mueller/SM

Staff: Raymond Day - (619) 533-6313
Mark D. Blake - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:09 p.m. – 3:24 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION AS AMENDED TO: 1) ACCEPT THE CITY TREASURER'S INVESTMENT POLICY FOR THE POOLED INVESTMENTS FUND DATED OCTOBER 2005; 2) AUTHORIZE THE CITY TREASURER TO INVEST THE CITY'S OPERATING AND CAPITAL IMPROVEMENT FUNDS FOR A PERIOD OF ONE YEAR; AND 3) NOT TO APPROVE THE RECOMMENDATIONS OF THE CITY TREASURER TO OPT OUT OF THE PROVISIONS OF GOVERNMENT CODE 53646 TO THE EXTENT SUCH PROVISIONS REQUIRE PROVIDING COPIES OF CERTAIN REPORTS TO THE CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMITTEE, UNLESS THE STATE AGREES TO REIMBURSE THE CITY FOR THE COST OF PRODUCING SUCH REPORTS. Second by Atkins. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-203: Fiscal Year 2007 Budget Priority Workshop.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-470) RETURNED TO THE CITY MANAGER

Accepting the Fiscal Year 2007 Budget Priority Workshop.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:24 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE CITY MANAGER.
Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-250: Notice of Pending Final Map Approval – Alexandria Technology Center.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Alexandria Technology Center” (T.M. No. 151108/PTS No. 76132), located northeasterly of North Torrey Pines Road and Science Park Road in the University Community Plan Area in Council District 1, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-251: Notice of Pending Final Map Approval – 4045 8th Avenue.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4045 8th Avenue” (T.M. No. 141611/PTS No. 71982), located northeasterly of 8th Avenue and Washington Street in the Uptown Community Plan Area in Council

District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-252: Notice of Pending Final Map Approval – 2020 Diamond Street.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “2020 Diamond Street” (T.M. No. 162847/PTS No. 83671), located northwesterly of Diamond Street and Noyes Street in the Pacific Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-253: Notice of Pending Final Map Approval – 4503 Hamilton Street.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4503 Hamilton Street” (T.M. No. 177013/PTS No. 82571), located northeasterly of Monroe Avenue and Hamilton Avenue in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-254: Notice of Pending Final Map Approval - 3909 Monroe Avenue.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "3909 Monroe Avenue" (T.M. No. 147052/PTS No. 71411), located southeasterly of Monroe Avenue and 39th Street in the Mid-City: Normal Heights Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-255: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the June 6, 2006 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	1/06/2006	151	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	1/11/2006	146	Rules Committee review
Monday	1/30/2006	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	2/06/2006	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	through 2/20/2006	to 106	
Monday	2/27/2006	99	Council adopts ordinances prepared by City Attorney
Friday	3/10/2006	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	3/23/2006	75	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4050.



ITEM-S400: Third Amendment to Agreement with McGraw/Baldwin Architects for Consultant Services for the College/Rolando Library.

(College Community Area. District 7.)

(Continued from the meeting of November 14, 2005, Item 55, at the request of the City Manager, to meet the noticing requirements.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/31/2005, Item 60. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-46) ADOPTED AS ORDINANCE O-19443 (New Series)

Authorizing the City Manager to execute the Third Amendment to the Agreement with McGraw/Baldwin Architects for professional services required for the construction of the College Rolando Library, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$47,793 from CIP-35-071.0, College/Rolando Branch Library, Fund No. 30244, Dept. No. 30244, Org. No. 106, to provide funding for the Third Amendment to the Agreement for the College/Rolando Library;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility this activity will result in a direct or reasonably foreseeable indirect physical change in the environment.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:27 p.m. – 3:27 p.m.)

MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-S401: Third Amended and Restated Lease Agreement with Brown Field Aviation Ventures (BFAV) for Aviation-Related Uses and General Office Use.

(Otay Mesa Community Area. District 8.)

(Continued from the meeting of November 14, 2005, Item 104, at the request of the City Manager, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-408) ADOPTED AS RESOLUTION R-301059

Authorizing the City Manager to execute, for and on behalf of City, a 35-year Third Amended and Restated Lease Agreement with Brown Field Aviation Ventures (BFAV), for the term beginning on December 1, 1996, and ending on November 30, 2031, with two 10-year options to extend, for the purpose of aviation-related uses and general office use pursuant to a Settlement and Release Agreement dated October 3, 2005, between the City and BFAV, under the terms and conditions set forth in the lease agreement;

Waiving Council Policy 700-41, regarding the use of the RFP process for the lease of City-owned land, as the Council Policy does not apply to the amended and restated lease because it is being executed pursuant to a Settlement and Release Agreement.

CITY MANAGER SUPPORTING INFORMATION:

In 1996, the City and Brown Field Aviation Ventures ("BFAV") entered into a long-term, flat-rate lease for approximately 15 acres, including 15,733 square feet of office space, at Brown Field Airport in Otay Mesa. The lease has been amended twice to reflect changes in the leasehold premises. In 1999, a portion of the premises was assigned to a third party. The City approved a sublease of the entire premises to Lancair Corp. in 2001.

Subsequently, a dispute arose among the parties regarding use and subleasing of the premises, including non-aviation uses. On August 9, 2005, Council approved a Settlement and Release Agreement in closed session. The Settlement and Release Agreement was executed by BFAV, Lancair, and the City on October 3, 2005.

Pursuant to the Settlement and Release Agreement, the City and BFAV have amended and restated the existing lease to (i) add to and delete from the property being leased, (ii) clarify the use of the office building at 1590 Continental, (iii) cap the scheduled 2006 market rate rent adjustment at 20%, (iv) waive fees for assignment of the lease to Lancair, (v) provide terms for extension of the lease term, (vi) provide for a right of first refusal upon expiration of the lease, and (vii) update the parties' development obligations.

The terms of the proposed amended and restated lease are as follows:

USE: Aviation uses as defined in Section 1.2a of the lease and general office use for fair market rent at 1590 Continental Street.

TERM: 35 years, with two 10-year options to extend, commencing 12/1/96 and ending 11/30/2031.

RENT: The initial rent of approximately \$91,212 per year will be adjusted in 2006, 2016 and 2026 to reflect market conditions and CPI adjustments will occur in 2011 and 2021, with additional adjustments during the extension terms, if any.

FISCAL IMPACT:

Initial annual rent of approximately \$91,212 will be deposited into the Airports Enterprise Fund.

Mendes/Gardner/Griffith/CLY

Staff: Jack Farris – (619) 236-5548
Carrie L. Gleeson – Chief Deputy City Attorney

FILE LOCATION: LEAS-Brown Field Aviation Ventures (BFAV)

COUNCIL ACTION: (Time duration: 3:28 p.m. – 3:51 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-S402: Agreement with Dominy & Associates Architects for Consulting Services for the San Carlos Branch Library.

(See memorandum from Afshin Oskoui dated 10/28/2005. Navajo Community Area. District 7.)

(Continued from the meetings of October 31, 2005, Item 105, and November 14, 2005, Item 200, last continued at the request of the City Manager, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-339 Rev.) ADOPTED AS RESOLUTION R-301060

Authorizing the City Manager to execute a phase funded agreement with Dominy & Associates, for professional design services for the San Carlos Branch Library (Project), CIP-35-088.0, in an amount not to exceed \$214,292 for Phase I, \$126,700 for Phase II, and \$83,957 for Phase III, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this Project and agreement;

Authorizing a \$200,000 increase in the Fiscal Year 2006 Capital Improvement Program Budget in CIP-35-088.0, San Carlos Library, in Fund No. 79506, Navajo DIF;

Authorizing the City Auditor and Comptroller to appropriate and expend \$200,000 from Fund No. 79506, Navajo DIF Fund, into CIP-35-088.0, San Carlos Library, for the purpose of providing funding for the project and related costs, provided that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$424,949 from CIP-35-088.0, San Carlos Library, Fund No. 30244, Capital Improvement Program Construction Fund, solely and exclusively, for the purpose of providing Project funds, provided that the City Auditor and Comptroller furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15262, as this activity involves only the funding of a planning study which will encompass the consideration of environmental factors prior to approval, adoption or funding of any future action;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

Subitem-B: (R-2006-516) ADOPTED AS RESOLUTION R-301061

Declaring that the City Council determines that all the foregoing recitals are true and correct;

Declaring that in accordance with Section 1.150-2 of the Treasury Regulations, the Issuer declares its intention to issue Debt in a principal amount not to exceed \$191 million in accordance with the 2002 financing plan, the proceeds of which will be used to pay for the costs of the Project (and related issuance costs), including the reimbursement to the Issuer for certain capital expenditures relating to the Project made prior to the issuance of the Debt;

Declaring that the amount transferred from the Navajo DIP Fund to the San Carlos Branch Library and used to fund the Project and related costs, will be deemed reimbursable under this Resolution.

CITY MANAGER SUPPORTING INFORMATION:

The proposed agreement with Architects Dominy & Associates will provide the professional design services required for preparation of bridging documents and construction support services for a new 25,000 sq. ft. San Carlos Library. The existing 8,200 sq. ft. library, located at 7265 Jackson Dr., is too small to provide adequate library services, such as meeting rooms, computer lab, adequate seating and space for books and multimedia items. The proposed new library will be built on the current library site and adjacent property. These funds became available after the added allocation of \$200,000 DIF Fund No. 79506.

In conformance with Council Policy 300-7, ten (10) architectural firms were interviewed for design services for the proposed reconstruction and expansion of the San Carlos Branch Library, and Dominy & Associates were selected to provide the required design services. On January 27, 2004, the City entered into a purchase order agreement for schematic design in an amount of \$24,999. The proposed agreement with the Architect is a phased contract with Phase I providing the professional design services required to prepare schematic drawings, permit processing and bridging documents. Phase II will provide for the completion of the bridging documents and Phase III, once funded, will provide construction support services for the San Carlos Branch Library. The current schedule anticipates construction funding becoming available in FY 2007/2008. In the event that this construction is delayed, the construction budget being developed with this contract may need to be adjusted to reflect construction cost escalations. If the scope of the project is revised or the project is not implemented, the work product developed through this action or related prior authorizations may not have other transferable uses/applications.

FISCAL IMPACT:

The total consultant's fee for professional services authorized for this work is \$449,948 which includes \$24,999 already paid under the January 2004 purchase order, \$214, 292 is for Phase I, \$126,700 is for Phase II, and \$83,957 is for Phase III. This agreement will be phase funded with \$340,992 being available in CIP-35-088.0, San Carlos Branch Library, Fund No. 30244, Dept. No. 30244, Org. No. 106 for Phase I (\$214,292) & Phase II (\$126,700). \$73,300 will be retained for preliminary engineering, environmental review, and permits. These funds became available after the added allocation of \$200,000 DIF Fund No. 79506.

Gardner/Boekamp/AO

Aud. Cert. 2600267.

Staff: Afshin Oskoui - (619) 533-3102
Christina L. Bellows – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:27 p.m. – 3:28 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



[ITEM-S403:](#) Robert F. Kennedy Day.

CITY ATTORNEY’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-518) ADOPTED AS RESOLUTION R-301062

Proclaiming Sunday, November 20, 2005, as “RFK Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:20 p.m. – 2:24 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Deputy Mayor Atkins at 3:57 p.m. in honor of the memory of:

John Norman Powell as requested by Council Member Madaffer; and
Mary P. Hiatt as requested by Deputy Mayor Atkins.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 3:52 p.m. – 3:57 p.m.)